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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,207	06/24/2003	James M. Allen		2232
31083	7590	12/12/2003		
THOMTE, MAZOUR & NIEBERGALL, L.L.C. 2120 S. 72ND STREET, SUITE 1111 OMAHA, NE 68124				
			EXAMINER	
			TADESSE, YEWEBDAR T	
			ART UNIT	PAPER NUMBER
			1734	

DATE MAILED: 12/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Applicati n No.	Applicant(s)	
	10/602,207	ALLEN, JAMES M.	
	Examiner	Art Unit	
	Yewebdar T Tadesse	1734	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☒ Claim(s) 8-17 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 June 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>08292003</u> | 6) <input type="checkbox"/> Other: |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "blender" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 1 and 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oberg et al (US 4,323,313) in view of GB 2,165,469 and Derrah et al (US

5,399,186). As to claims 1 and 7, Oberg et al discloses (see Figs 1-2, column 2, lines 57-60) an impregnator system for coating fertilizer with liquid chemicals comprising at least one container adapted to hold the at least one fluid (sources of liquid chemicals in communication with the pumps), a blender having inner chamber adapted to selectively receive the particulate and the at least one fluid (mixing drum 16), a supply line adapted to carry the at least one fluid, having first and second end portions; the first end portion being operatively coupled with the at least one container (first end portions of lines 42, 44, 46 and 48 in communication with the sources of liquid chemicals through pumps) and a pump for selectively forcing the fluid through the supply lines (pumps 50, 52, 54 and 56). Oberg et al discloses a part attached to the end portion (discharge line 18) in fluid communication with the blender (mixing tank 16). Yet, in Oberg et al device it is unclear whether this end part is a nozzle. However, a nozzle attached to the dispensing line in communication with a mixing tank is well known in the art; for instance Derrah et al discloses nozzle (48, 58) attached to the coating material supply conduit (84) wherein the nozzle is in flow communication with the mixing bed. It would have been obvious at the time the invention was made to include spraying nozzle in Oberg et al device to evenly distribute or spread the chemical within the mixing tank. Oberg et al lacks teaching a return line having first and second end portions, the first end portion being operatively coupled with the second end portion of the supply line, the second end portion of the return line being operatively coupled with the at least one container and the supply line and the return line forming a continuous loop. GB'469 discloses (see Fig 2) liquid spray system having a loop including liquid supply line (12) and a return line

(13), wherein the first end portion of the return line is connected to the second end portion of the supply line through the spray arm, the second end portion of the return line is connected to the container (tank 11), the supply line and the return line forming a continuous (closed) loop and each supply and return line as shown in Fig 2 is branched into a plurality of separate supply and return lines. It would have been obvious at the time the invention was made to include a return line forming a continuous loop with the supply line in Oberg et al's device as modified to circulate in a closed loop unused spray liquid supplied to the dispenser or nozzle as taught by GB'469 (see page 3, lines 108-112).

As to claim 6, Oberg et al discloses a plurality of separate containers (sources of liquid chemicals).

5. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Oberg et al (US 4,323,313) in view of GB 2,165,469, Derrah et al (US 5,399,186) as applied to claim 1 above, and further in view of Langeman (US 5,388,761). Oberg et al lacks teaching heating means for heating containers (sources of liquid). Langeman discloses (see Fig 1) electric heater (36A and 36B) provided for the tanks (22A and 22B) storing liquid components. It would have been obvious at the time the invention was made to include heating means for the sources of liquid to retain the liquid at the desired temperature.

6. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oberg et al (US 4,323,313) in view of GB 2,165,469, Derrah et al (US 5,399,186) as applied to claim 2 above, and further in view of Schafer (US 5,843,621). Oberg et al as modified is silent concerning insulation for the supply and return lines. Schafer teaches (see column 5, lines 32-37 and column 7, lines 18-23) insulated supply and return pipes. It would have been obvious at the time the invention was made to include insulated supply and return lines in Oberg et al to prevent heat loss of the coating liquid.

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Oberg et al (US 4,323,313) in view of GB 2,165,469 and Derrah et al (US 5,399,186) as applied to claim 1 above, and further in view of Melliger (US 4,617,872). Oberg et al is silent concerning a scale for determining the weight of the container and the fluid within the container. Melliger discloses a scale for reservoir (19 and 21) containing coating liquid. It would have been obvious at the time the invention was made to include a scale for the container or sources of the liquid chemical to disperse exact amount of coating liquid to the particulate as taught by Melliger (see column 2, lines 56-61).

Allowable Subject Matter

8. Claims 8-17 are objected as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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9. The following is a statement of reasons for the indication of allowable subject matter: prior art of record does not disclose or suggest a system for coating particulate with at least one fluid, comprising, among others, a plurality of separate supply lines and a plurality of separate return lines wherein each of the plurality of separate supply lines is operatively coupled with one of the plurality of separate return lines so that a plurality of separate continuous loops are formed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yewebdar T Tadesse whose telephone number is (703) 305-3539, effective December 19, 2003 the examiner telephone number is (571) 272-1238. The examiner can normally be reached on Monday-Friday 8:00 AM-4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (703) 308-3853, effective December 19, 2003 the supervisor telephone number is (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7718. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Yewebdar T. Tadesse
YTT

Richard Crispino
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